

BINGHAM

Brandon L. Bigelow
 Direct Phone: 617.951.8305
 Direct Fax: 617.951.8736
 brandon.bigelow@bingham.com

August 10, 2009

BY HAND DELIVERY

The Honorable Nathaniel M. Gorton
 John Joseph Moakley United States Courthouse
 One Courthouse Way, Suite 3110
 Boston, MA 02210

Re: Braintree Laboratories, Inc., et al. v. Citigroup Global Markets Inc., et al., No. 09-cv-10601

Your Honor:

This firm represents defendant, Citigroup Global Markets Inc. ("CGMI"), in this action. On May 6, 2009, CGMI filed a Motion to Stay Proceedings or Compel Arbitration, arguing that this Court should either (1) stay this matter until a final determination is made as to whether this matter should be transferred to a multidistrict litigation ("MDL") in the United States District Court for the Southern District of New York; or (2) compel plaintiffs, Braintree Laboratories, Inc., Braintree Holdings, and Braintree Real Estate Management Company, LLC (together, the "Braintree Entities"), to comply with their contractual obligation to submit this dispute to arbitration. That motion (and CGMI's motion for leave to file a reply in support of that motion) is now pending.

A similar motion to compel arbitration and stay proceedings was filed by CGMI in *The Reserve Homeowners Association v. Citigroup Global Markets Inc.*, Plymouth Superior Court, Civ. A. No. 09-565 (the "Reserve Action"). This action and the Reserve Action are related because they assert similar claims; the Chief Executive Officer of Braintree is also a principal of Reserve; and plaintiffs in both actions are represented by the same counsel. The arbitration clauses at issue in both actions are the same, and plaintiffs in both actions made identical arguments in opposition to CGMI's motions to compel arbitration.

Boston
 Hartford
 Hong Kong
 London
 Los Angeles
 New York
 Orange County
 San Francisco
 Santa Monica
 Silicon Valley
 Tokyo
 Walnut Creek
 Washington

FILED
 IN CLERK'S OFFICE
 DISTRICT COURT
 DISTRICT OF MASS.

09 AUG 10 P 3 51

Bingham McCutchen LLP
 One Federal Street
 Boston, MA 02110-1726

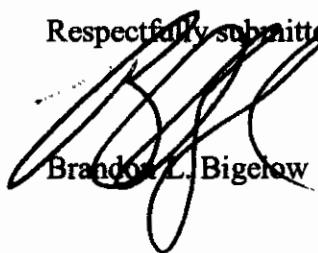
T 617.951.8000
 F 617.951.8736
 bingham.com

A/73109763.1

The Honorable Nathaniel M. Gorton
August 10, 2009
Page 2

On July 28, 2009, after hearing oral argument, the Plymouth Superior Court granted CGMI's motion to compel arbitration in the Reserve Action and ordered Reserve to submit all of its claims to arbitration. A copy of the Decision and Order is enclosed.¹ Because the arguments rejected by the state court are the same arguments advanced by the Braintree Entities in opposition to the motion to compel arbitration in this action, we respectfully submit that this Court should compel the Braintree Entities to arbitration for the reasons set forth in the Superior Court's decision.

Respectfully submitted,



Brandon L. Bigelow

Enclosure

cc: Barry S. Pollack, Esq. (*by hand, w/encl.*) (counsel for plaintiffs)
Joshua L. Solomon, Esq. (*by hand, w/encl.*) (counsel for plaintiffs)
Charles E. Davidow, Esq. (*by pdf, w/encl.*) (co-counsel for defendant)
Robert A. Buhlman, Esq. (*w/o encl.*)

¹ Reserve has since filed a motion for reconsideration of that decision.